

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE
STATE OF CALIFORNIA**



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Order Instituting Rulemaking to Implement the)
Commission's Procurement Incentive)
Framework and to Examine the Integration of)
Greenhouse Gas Emission Standards into)
Procurement Policies.)
_____)

R.06-04-009
(Filed April 13, 2006)

PREHEARING CONFERENCE STATEMENT OF CALPINE CORPORATION

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Dated: November 15, 2006

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PREHEARING CONFERENCE STATEMENTS OF CALPINE CORPORATION

Pursuant to Joint Administrative Law Judge's Ruling and Notice of Prehearing Conference ("Joint Ruling"), Calpine Corporation ("Calpine") respectfully submits this prehearing conference statement addressing Phase 2 issues in the Commission's greenhouse gas ("GHG") rulemaking. Phase 2 will address implementation issues associated with the load-based GHG emissions cap adopted by the Commission in Decision 06-02-032. Calpine has long supported measures to limit GHG emissions and looks forward to working with the Commission and other State agencies to develop policies that will encourage the procurement of cleaner sources of power without compromising electric reliability. While Calpine expects to address many of the issues identified in the Joint Ruling during the course of this proceeding, this prehearing conference statement focuses on three primary issues.

I. POLICIES ADOPTED IN THIS PROCEEDING MUST TAKE INTO ACCOUNT GENERATORS THAT HAVE ALREADY MADE COMMITMENTS TO LOW GHG EMITTING GENERATION RESOURCES

As a general matter, it is important to the credibility of California's GHG reduction programs and overall success of the State's long-term GHG reduction goals that policies be developed that do not penalize generators that have proactively taken steps to reduce GHG emissions. Item 1 in Attachment A to the Joint Ruling indicates that the Commission expects to consider ways in which generation/facility-specific data will be included within the load-based

emissions cap. To the extent the Commission considers factors, such as “baseline” emissions for generation resources, in its analysis, it must account for generators that have already made commitments to low GHG emitting generation resources.

Assembly Bill 32 requires the California Air Resources Board (“CARB”) to

Ensure that entities that have voluntarily reduced their greenhouse gas emissions prior to the implementation of this section receive appropriate credit for early voluntary reductions.¹

It is incumbent on the Commission to ensure that the measures it adopts in this proceeding do not penalize generators that have already invested in low emission technologies or, alternatively, reward historically high emitting GHG generation resources. Penalizing generators that have already invested in low emission technologies or rewarding historically high emitters is inconsistent with the State’s long-term environmental goals in general, AB 32 in particular, and must be discouraged.

II. UNSPECIFIED RESOURCES SHOULD NOT BE ELIGIBLE TO PARTICIPATE IN THE EMISSIONS CAP PROGRAM

Several Items in Attachment A to the Joint Ruling address issues related to the appropriate treatment of GHG emissions from unspecified resources. Thus, it appears that the Commission is, at a minimum, considering allowing load serving entities to use unspecified resources as part of the emissions cap program. Allowing unspecified resources to participate in the emissions cap program is contrary to California’s long-term GHG reduction goals and should not be permitted.

To participate in a emissions cap program, it will be necessary for unspecified resources to be assigned an emissions level for accounting purposes. As Calpine discussed in its Phase 1 comments, the use of emission proxies for unspecified resources is, by nature, inconsistent with the fundamental purpose of GHG reduction goals because they do not account for actual GHG

¹ Chapter 488, section 38562(b)(3) at 8, Statutes of 2006.

emissions from the emitting resource. De-linking actual emissions from the emitting resource makes it impossible to determine whether the actual emissions from an unspecified resource is consistent with the State's GHG reduction policies or simply exacerbate the problem the Commission's GHG reduction programs are trying to solve. Given goals of this proceeding, the Commission should put parties on notice *at the outset of Phase 2* that unspecified resources will be ineligible to participate in the emissions cap program.

III. THE PROCEDURAL SCHEDULE MUST ALLOW SUFFICIENT TIME FOR MEANINGFUL CONSULTATION BETWEEN THE COMMISSION AND CARB

Pursuant to AB 32, CARB is the State agency responsible for monitoring and regulating sources of GHG emissions with the goal of reducing GHG emissions to 1990 levels by 2020.² Among its provisions, AB 32 requires CARB to consult with the Commission on certain matters to ensure that any actions taken by CARB and the Commission are “complementary, nonduplicative, and can be implemented in an efficient and cost-effective manner.”³ The draft Phase 2 schedule attached to the Joint Ruling raises significant concerns that there may not be sufficient time for meaningful consultation between CARB and the Commission, as mandated by AB 32.

The Joint Ruling identifies six major categories of issues to be addressed over a 24 month period. Over this time period, the Commission expects to hold numerous workshops (and potentially hearings), consider hundreds - if not thousands - of pages of stakeholder comments, and issue, at least, three separate decisions. If this proceeding were taking place in isolation, the draft schedule would be incredibly ambitious and likely not provide sufficient time for thoughtful consideration of key policy issues. Given the fact the Commission must consult with

² Chapter 488 at 1, Statutes of 2006.

³ Chapter 488, Section 38561(a) at 7, Statutes of 2006.

CARB at key points in the decision making process, Calpine fears that the draft schedule may be simply unworkable.

As the owner and operator of a fleet of clean natural gas and renewable geothermal generation resources, Calpine strongly supports measures to limit GHG emissions and believes the Commission should move as quickly as possible to develop and implement an emissions cap program. Notwithstanding this need to move quickly, however, it is critical that the program ultimately adopted by the Commission advance California's long-term GHG reduction goals. In light of Senate Bill 1368 and the Commission's expected adoption of an emissions performance standard for all new long-term baseload resource commitments, measures will soon be in place to prevent "backsliding" during the pendency of Phase 2. These interim measures should allow the Commission, CARB, and other State agencies to take the time necessary to develop and implement longer term programs to mitigate environmental impacts associated with GHG emissions.

Calpine would like to see the Commission move as quickly as possible in Phase 2. However, because it will be necessary for the Commission to consult with, and receive key input from, CARB over the course of this proceeding, the schedule must be workable from CARB's perspective. Accordingly, Calpine encourages the Commission to work with CARB to develop a procedural schedule that will be complementary and will allow for the two agencies to coordinate their efforts.

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CERTIFICATE OF SERVICE

I, Judy Pau, certify:

I am employed in the City and County of San Francisco, California, am over eighteen years of age and am not a party to the within entitled cause. My business address is 505 Montgomery Street, Suite 800, San Francisco, California 94111.

On November 15, 2006, I caused the following to be served:

PREHEARING CONFERENCE STATEMENTS OF CALPINE CORPORATION

via electronic mail to all parties on the service list R.06-04-009 who have provided the Commission with an electronic mail address and by First class mail on the parties listed as "Appearance" and "State Service" on the attached service list who have not provided an electronic mail address.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on the date above at San Francisco, California.

/s/ Judy Pau

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